

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 957 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

PATEL PARSOTAMBHAI PRAHLADBHAI

Appearance:

MR RC KODEKAR, AGP for appellants
MR AJ PATEL for Respondent

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.C.PATEL

Date of decision: 29/08/2000

ORAL JUDGEMENT

(Per : Panchal, J.)

This appeal, which is filed under section 54 of the Land Acquisition Act, 1894 read with section 96 of the Code of Civil Procedure, 1908, is directed against judgment and award dated April 26, 1990, rendered by the learned Assistant Judge, Ahmedabad (Rural) at Ahmedabad, in Land Acquisition Case No.630/87, by which it is held that the respondent is entitled to additional compensation at the rate of Rs.61/- per sq.mt. over and above the compensation offered by the Land Acquisition Officer.

Heard the learned counsel for the parties. It is an admitted position that except producing Index of sale deeds, no other evidence was adduced by the respondent before the reference court for claiming higher compensation. It is well settled that even examination of sale deeds by themselves is inadmissible in evidence, though certified copies marked under section 51(A) of the Land Acquisition Act, 1894 are available, unless vendor or vendee or scribe of the sale deed is examined before the Court to present relevant features of the sale. Therefore, Index of sale deeds could not have been relied on by the reference court for the purpose of awarding additional compensation at the rate of Rs. 61/per sq.mt. over and above the compensation awarded by the Special Land Acquisition Officer. Grant of additional compensation by the reference court is based on totally inadmissible evidence and, therefore, judgment of the reference court is liable to be set aside. Cross-objections filed by the claimants which are based on inadmissible evidence, cannot be sustained and are liable to be dismissed. However, it is the duty of the Court to award adequate compensation to a claimant whose land is acquired for public purpose. If the reference court had not admitted inadmissible evidence, the claimant would have produced other evidence in support of his claim for higher compensation. For this mistake of the reference court, the claimant should not suffer. The learned counsel for the appellants as well as learned counsel for the claimant have stated that the matter be remitted to the reference court for re-determination of compensation after giving opportunity to the parties to lead evidence in support of their respective cases. We are satisfied that in the interest of justice, the matter deserves to be remitted to the reference court for re-determination of compensation payable to the claimant.

For the foregoing reasons, the appeal partly succeeds. The judgment and award dated April 26, 1990 rendered by the learned Assistant Judge, Ahmedabad

(Rural) at Ahmedabad in Land Acquisition Case No. 630/87, is set aside. The matter is remitted to the reference court for re-determination of compensation in accordance with law. The parties will be entitled to lead evidence in support of their respective cases before the reference court and after hearing the parties, appropriate award re-determining compensation shall be passed by the reference court. The reference shall be decided by the reference court as early as possible and preferably within six months from the date of receipt of the writ. The appeal is accordingly allowed, whereas the cross-objections are dismissed, with no order as to costs.

(J.M.Panchal,J.)

(M.C.Patel, J.)

(patel)